

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of goods or services purchased, or similar information must be indicated on the check.

(3) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number and date of the check will be inserted on all bills of sale, invoices, receipts, and itemized statements for materials, equipment, and services.

(4) Bills of sale, invoices, receipts, or itemized statements may be returned to the borrower with the canceled check for the payment of the bill.

(5) Checks to be drawn on a supervised bank account will bear the legend:

- “Countersigned,” not as co-maker or endorser.

(Title)

Rural Development

[46 FR 36106, July 14, 1981, as amended at 54 FR 47959, Nov. 20, 1989; 70 FR 59227, Oct. 12, 2005]

§ 1902.11 Servicing Office records.

A record of funds deposited in a supervised bank account will be maintained on Form RD 402-2 in accordance with the Forms Manual Insert. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form RD 402-2 so that they can be clearly identified.

[70 FR 59228, Oct. 12, 2005]

§§ 1902.12–1902.13 [Reserved]

§ 1902.14 Reconciliation of accounts.

(a) A checking account statement will be obtained periodically in accordance with established practices in the area. If the checking statement does not include sufficient information to reconcile the account (the name of the payee or the check number and the amount of each check; i.e., a negotiable demand draft drawn on a financial institution), the original cancelled check or either a copy or other reasonable facsimile of the cancelled check must be provided to the Servicing Of-

fice with the statement. Checking account statements will be reconciled promptly with Servicing Office records. The person making the reconciliation will initial the record and indicate the date of the action.

(b) All checking account statements and, if necessary, original cancelled checks or either a copy or other reasonable facsimile of the cancelled checks will be forwarded immediately to the borrower when bank statements and Servicing Office records are in agreement. If a transmittal is used, Form RD 140-4, “Transmittal of Documents”, is prescribed for that purpose.

(c) If the financial institution did not return the original cancelled check(s) to the Agency with the statements, and Rural Development has a need for the original cancelled check(s), the financial institution, upon request by the Agency, will furnish to the Agency the requested original cancelled check(s) or a certified copy or other reasonable certified facsimile of the cancelled check(s) and will provide this service to Rural Development with no fees being assessed the Agency or the Depositor’s account for the service.

[70 FR 59228, Oct. 12, 2005]

§ 1902.15 Closing accounts.

When FmHA or its successor agency under Public Law 103-354 loan or grant funds and those of any other lender or grantor have all been properly expended or withdrawn, Form FmHA or its successor agency under Public Law 103-354 402-6 may be used to give FmHA or its successor agency under Public Law 103-354’s consent (and of another lender or grantor, if involved) to close the supervised bank account in the following situations:

(a) When FmHA or its successor agency under Public Law 103-354 loan funds in the supervised bank account of a borrower have been reduced to \$100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts, after completion of authorized loan funds expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower’s loan account

with Rural Development or another lender, as appropriate.

(c) Promptly upon death of a borrower, except when the loan is being continued with a joint debtor, when a borrower is in default and it is determined that no further assistance will be given, or when a borrower is no longer classified as “active.”

(1) *Deceased borrowers.* (i) Ordinarily, upon notice of the death of a borrower, the District Director or the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower’s FmHA or its successor agency under Public Law 103–354 indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(i) Ordinarily, upon notice of the death of a borrower, the Servicing Official will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower’s Rural Development indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of a deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the financial institution will agree to permit the addition of the surviving joint debtor’s name to the existing signature card and the appropriate Deposit Agreement and continue to disburse checks out of the existing account upon FmHA or its successor agency under Public Law 103–354’s countersignature and the joint debtor’s signature in place of the deceased borrower, or

(C) The financial institution will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FmHA or its successor

agency under Public Law 103–354 and the surviving joint debtor and deposit the money in a new supervised bank account with a surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FmHA or its successor agency under Public Law 103–354 official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA or its successor agency under Public Law 103–354 indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated balances of funds from other lenders to the FmHA or its successor agency under Public Law 103–354 borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA or its successor agency under Public Law 103–354, the lender and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower’s plans approved by FmHA or its successor agency under Public Law 103–354.

(2) *Borrowers in default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the Servicing Official will request the State Director to make demand upon the financial institution for the balance on deposit in the borrower’s supervised bank account for application as appropriate:

(i) To the borrower’s FmHA or its successor agency under Public Law 103–354 indebtedness, or

(ii) As refunds of any unobligated advance provided by other lenders which were deposited in the account, or

(iii) For the return of Rural Development grant funds in accordance with 7 CFR part 1951, subpart B or

(iv) For the return of grant funds to other grantors.

RHS, RBS, RUS, FSA, USDA

Pt. 1902, Subpt. A, Exh. B

(3) *Inactive borrowers.* An inactive borrower is one whose loan has not been paid in full, but is no longer classified as “active.”

(4) *Paid up borrowers.* A paid-up borrower is one who has a balance remaining in the supervised bank account and has repaid the entire indebtedness to Rural Development and has properly expended all funds advanced by other lenders. In such cases the Servicing Official will:

(i) Notify the borrower in writing that the interests in the account of Rural Development have been terminated, and

(ii) Inform the borrower of the balance remaining in the supervised bank account.

[46 FR 36106, July 14, 1981, as amended at 53 FR 231, Jan. 6, 1988; 54 FR 47196, Nov. 13, 1989; 66 FR 1569, Jan. 9, 2001; 70 FR 59228, Oct. 12, 2005]

§ 1902.16 Request for withdrawals by State Director.

When the State Director is requested to make written demand upon the financial institution for the balance on deposit in the supervised bank account, or any part thereof, the request will be accompanied by the following information.

(a) Name of borrower as it appears on the applicable Deposit Agreement.

(b) Name and location of financial institution.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant, or under a subordination agreement or other arrangement between the FmHA or its successor agency under Public Law 103-354, the other lender, and the borrower.

(d) Amount to be withdrawn, excluding any service charges, for a refund of FmHA or its successor agency under Public Law 103-354's.

(e) Other pertinent information including reasons for the withdrawal.

§§ 1902.17–1902.49 [Reserved]

§ 1902.50 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the OMB

and have been assigned OMB Control Number 0575-0158.

[70 FR 59228, Oct. 12, 2005]

**EXHIBIT A TO SUBPART A OF PART 1902
[RESERVED]**

**EXHIBIT B TO SUBPART A OF PART 1902—
UNITED STATES DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354—INTEREST-BEARING DEPOSIT AGREEMENT**

BECAUSE certain funds of _____ referred to as the “Depositor,” are now on deposit with the _____, referred to as the “Financial Institution,” under a Deposit Agreement, dated _____, 20____, providing for supervision by the United States of America, acting through the Farmers Home Administration or its successor agency under Public Law 103-354, referred to as the “Government,” which Deposit Agreement grants to the Government security and/or other interest in the funds covered by that Deposit Agreement, and

BECAUSE certain of these funds are not now required for immediate disbursement and it is the desire of the Depositor to place these funds in interest-bearing deposits with the Financial Institution:

THEREFORE, the Depositor and the Government authorize and direct the Financial Institution to place _____ Dollars (\$_____) of the funds subject to that Deposit Agreement in interest-bearing deposits as follows:

\$ _____ for a period of _____ months
at _____ % interest.
\$ _____ for a period of _____ months
at _____ % interest.
\$ _____ for a period of _____ months
at _____ % interest.

These interest-bearing deposits and the income earned on them at all times shall be considered a part of the account covered by said Deposit Agreement except that the right of the Depositor and the Government to jointly withdraw all or a portion of the funds in the account covered by the Deposit Agreement by an order of the Depositor countersigned by a representative of the Government, and the right of the Government to make written demand for the balance or any portion of the balance, is modified by the above time deposit maturity schedule. The evidence of such time deposits shall be issued in the names of the Depositor and the Farmers Home Administration or its successor agency under Public Law 103-354.

A copy of this Agreement shall be attached to and become a part of each certificate,